

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: William Begeny	Team: Team # 1	CCRB Case #: 200615172	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 10/19/2006 8:45 PM	Location of Incident: East 227 Street and Bronxwood Avenue	Precinct: 47	18 Mo. SOL 4/19/2008	EO SOL 4/19/2008	
Date/Time CV Reported Tue, 11/14/2006 10:18 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 11/14/2006 10:18 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. POM Luis Alemany	15173	900152	047 PCT
3. SGT Donald Abrams	00085	921890	E S U
4. POM Michael Raso	18576	933235	047 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Raso	Abuse: PO Michael Raso refused to provide his shield number to § 87(2)(b)	
B.SGT Donald Abrams	Abuse: Sgt. Donald Abrams authrotiezed the stop of § 87(2)(b)	
C.SGT Donald Abrams	Force: Sgt. Donald Abrams used physical force against § 87(2)(b)	
D.POM Luis Alemany	Force: PO Luis Alemany used physical force against § 87(2)(b)	
E.POM Michael Raso	Force: PO Michael Raso used physical force against § 87(2)(b)	
F.POM Michael Raso	Abuse: PO Michael Raso searched § 87(2)(b)	
G. Officers	Abuse: Officers damaged § 87(2)(b)'s property.	
H.POM Michael Raso	Abuse: PO Michael Raso strip-searched § 87(2)(b)	
I.POM Michael Raso	Force: PO Michael Raso used pepper spray against § 87(2)(b)	

Synopsis

On November 14, 2006, § 87(2)(b) filed a complaint at the CCRB against three NYPD officers. On October 19, 2006, at approximately 8:45 PM, § 87(2)(b) was walking in the vicinity of East 227th Street and Bronxwood Avenue. Plainclothes officers inside a marked Ford Explorer, later identified as Sgt. Donald Abrams, PO Luis Alemany, and PO Michael Raso from the 47th Precinct Anti-crime unit, attempted to speak with § 87(2)(b) from their vehicle and § 87(2)(b) proceeded to walk and did not respond. § 87(2)(b) alleged that he requested PO Michael Raso's name and shield number and he refused to provide this information (**allegation A**). § 87(2)(b) then proceeded to walk up a driveway between two private houses and the officers, authorized by Sgt. Abrams, stopped him by grabbing hold of his arms (**allegation B**). Once stopped, § 87(2)(b) began screaming and cursing at the officers, which led to multiple civilians from the neighborhood to leave their homes. § 87(2)(b) also alleged that the officers then moved him to the ground and that PO Raso punched him in the face repeatedly and without provocation, during which time the officers attempted to place him in handcuffs (**allegations C, D, and E**). § 87(2)(b) also alleged that while he was on the ground, § 87(2)(b) (allegations F, G, and H). While on the ground, § 87(2)(b) allegedly fought with the officers and attempted to kick them even after being placed in handcuffs. § 87(2)(b) was placed inside the officers' vehicle and he continued to scream. During this time, PO Raso allegedly pepper-sprayed § 87(2)(b) while he was inside the vehicle. Officers from the Emergency Services Unit responded and placed § 87(2)(b) in a body-length restraint device. An ambulance was also called and § 87(2)(b) was transported to § 87(2)(b) where he received psychological treatment. He was not arrested or issued any summonses. He did not have any significant injuries.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b) was interviewed at the CCRB on November 28, 2006. § 87(2)(b) His statement is consistent with his initial complaint narrative (Encl. 6A-6E).

On October 19, 2006, at approximately 8:45 PM, § 87(2)(b) left his home at § 87(2)(b) in the Bronx and walked to the home of his friend, § 87(2)(b) who lived three houses in from the intersection at East 227th Street and Bronxwood Avenue. The lighting was very dark at this time. East 227th Street and Bronxwood Avenue is approximately three blocks from § 87(2)(b)'s home. Previous to this time, § 87(2)(b) was at his home all day. § 87(2)(b) intended to watch the New York Mets playoff game at Greg's home, and did not drink any alcohol or use any drugs at any time prior to leaving his home. § 87(2)(b) does not use any drugs. He wore a Mets baseball hat, light blue jeans, and a gray hooded sweatshirt. Inside § 87(2)(b)'s front right pocket were his keys, mobile phone, and his two and one-half inch by three and one-half inch wallet. He did not carry any bags with him and did not have any other items. § 87(2)(b) did not tell § 87(2)(b) that he was going to his house but he did inform his mother, § 87(2)(b) and girlfriend, § 87(2)(b), before leaving for Greg's home to watch the game.

As § 87(2)(b) approached the intersection, he saw a marked Ford Explorer with “four” uniformed officers inside driving slowly. The officers were wearing all black uniforms with bulletproof vests, which were covering their shields. The driver, later identified as PO Michael Raso from the 47th Precinct, was a white, possibly Italian male, with black hair, approximately 5’9” tall, and had tattoos on his arms. The passenger, later identified as Sgt. Donald Abrams from the 47th Precinct, was a white male with short blonde hair, was approximately 6’2” tall, and had a muscular build. PO3 and PO4 were white males who possibly had dark hair, but § 87(2)(b) was unable to describe them more clearly. (Based on the officer’s statements and relevant police documents it is likely that there were only three officers present during this incident, the third being PO Luis Alemany from the 47th Precinct.) He suspected that the officers first saw him when he crossed the street at this intersection. § 87(2)(b) crossed the street quickly because there is no stop light at the intersection. He walked quickly only during the time he was in the road, did not begin to run, and slowed immediately before he reached the other side of street. There were no vehicles approaching § 87(2)(b) at the time he crossed the street. The officers drove very slowly behind § 87(2)(b) for approximately thirty seconds. There were other civilians on the street at the time of this incident, possibly inside the Laundromat. § 87(2)(b) did not turn to watch the officers after he initially saw the marked SUV. His hands were outside of his pockets.

§ 87(2)(b) upon approaching Greg’s home, walked up his driveway towards his door to the basement. This door is located at the rear of the home, but § 87(2)(b) did not walk past the driveway and did not make it to the rear of the home. Greg’s family lives upstairs at the same address. The marked SUV stopped and an officer exited the vehicle and quickly approached § 87(2)(b) immediately recognized these individuals to be police officers.

PO Raso called in some manner for § 87(2)(b) which caused him to turn around. No other officers exited the vehicle at this time. The officer approached him from behind and stood immediately beside § 87(2)(b) inside the driveway. § 87(2)(b) had the impression that the officer might have believed that he was attempting to evade the officers by going inside the driveway. PO Raso asked § 87(2)(b) what he was doing. § 87(2)(b) explained that a friend lived at the address. PO Raso asked § 87(2)(b) for identification, while he stood approximately one and one-half feet from his face. He spoke abruptly and in an accusatory manner. § 87(2)(b) attempted to speak to PO Raso quickly in order to explain his actions so that he would not act so aggressively towards him. PO Raso spoke loudly. § 87(2)(b) being intimidated by the officer, attempted to step backwards away from him. He accused § 87(2)(b) of not having his identification with him. § 87(2)(b) did have his identification and stated, “Officer, I’m trying to explain to you. I have a friend who lives here.” He moved to his front pocket in order to remove his wallet with his identification inside. PO Raso told § 87(2)(b) not to go inside his pocket. § 87(2)(b) did not know why PO Raso accused § 87(2)(b) of not having his identification. § 87(2)(b) told the officer that he did not feel it was right that he was harassing him and he stated, “Officer, I would love to see your shield number.” § 87(2)(b) was upset at the time he stated this. Upon hearing this, PO Raso quickly grabbed § 87(2)(b) by his right arm and pushed him against the side of Greg’s home. PO Raso did not tell § 87(2)(b) not to go inside his pocket more than once.

Once § 87(2)(b) was pushed against the wall, PO Raso moved § 87(2)(b)’s right hand behind his back and placed one handcuff on his wrist. He was positioned with his chest against the wall. Also at this time, PO Raso pulled § 87(2)(b)’s sweatshirt back and around his shoulders, which prevented him from being able to move his arms. The additional three officers then immediately approached § 87(2)(b). He shouted to the officer repeatedly, “I have my ID. Why don’t you want me to go inside my pocket? That’s all I’m trying to do.” He did not use any profanity at any time. Without any physical provocation from § 87(2)(b) PO Raso immediately began punching § 87(2)(b) in back of his head, causing him to turn. Sgt. Abrams then punched § 87(2)(b) once on the left-hand side of his face above his cheek. While § 87(2)(b) was standing, the officers were able to place both handcuffs on § 87(2)(b) after approximately thirty to forty-five seconds.

The officers then moved § 87(2)(b) against the ground. § 87(2)(b) shouted, “What have I done? Am I under arrest?” He stated that he did not attempt to move his hand away from the officers in order to prevent them from handcuffing him. He did attempt to turn his body away from the officers while he was on the ground so that he could face them and ask why he was being arrested. The officers turned § 87(2)(b).

§ 87(2)(b) onto his back, and in doing so tore his jeans at the pocket and caused a long tear from the pocket along the seam down to slightly above his right knee. Reaching through the hole on the inside of his jeans, PO Raso pulled § 87(2)(b)'s boxer shorts entirely down while the jeans were still up around his waist and his pants were fastened. This officer then patted in the area of § 87(2)(b)'s genitals, which § 87(2)(b) thought was so that the officer could check for contraband. He stated that he was not in possession of any weapons or narcotics. PO Raso searched § 87(2)(b) while standing and reaching down towards him. § 87(2)(b) believed that the officers were amused by this interaction and could hear them laughing throughout this encounter. They told him repeatedly that he was going to go "up north," which § 87(2)(b) believed was in reference to a jail. An officer held onto § 87(2)(b)'s legs against the ground with his hands and in doing so sprained § 87(2)(b)'s ankles.

Approximately six to eight marked RMPs then responded to the scene. None of these officers had any interaction with § 87(2)(b).

While PO Raso searched § 87(2)(b) he began to kick his legs a few times. § 87(2)(b) did attempt to push PO Raso off of him using his legs because he did not know why he had his hand in the vicinity of his genitals. At the same time, the officers appeared to be attempting to lift § 87(2)(b) in order to place him in a marked RMP. He continued to attempt to push them off of him using his legs. The officers were then able to place him into the marked RMP.

§ 87(2)(b) admitted that due to the noise, several individuals might have exited their homes in order to see what was happening. He learned, after the fact, that an individual, whom he knew as "§ 87(2)(b)" took a photograph of § 87(2)(b) being brought to the police vehicle with his mobile phone. § 87(2)(b) did not see individuals exit their home, but learned that there were people who came out to see what happened after the fact. While inside the police vehicle, he saw a few people standing outside in the general vicinity of the incident. At no point did any individual stand within ten to twenty feet of § 87(2)(b) or the officers.

While § 87(2)(b) was sitting inside the marked RMP, he heard PO Raso speaking with an officer who appeared to be in charge. This officer was in uniform and was not wearing a white shirt. He heard this officer say to the superior officer that § 87(2)(b) did not have his identification on him. § 87(2)(b) upon hearing this, screamed to the officers that he did have his ID inside his pocket. None of the officers responded to this statement. The officers were approximately twenty feet from § 87(2)(b). There were no other officers between § 87(2)(b) and PO Raso. Approximately ten seconds after stating this, PO Raso walked to the marked RMP and pepper-sprayed § 87(2)(b) through an open door. § 87(2)(b) did not see any officers interacting with any other civilians at the scene. The four original officers persisted to laugh, but no other officers laughed about the pepper-spray.

Approximately fifteen minutes afterwards and ambulance arrived to the scene. None of the officers explained to § 87(2)(b) if he was arrested or where he was going to be taken. None of the officers asked § 87(2)(b) about weapons or drugs.

Once the ambulance arrived, the officers removed § 87(2)(b) from the vehicle. He could not see anything at this time. The officers pulled him by his legs and when he moved to the ground he hit his head against the vehicle as he fell. The officers then placed him inside a body length bag and then placed him inside an ambulance. § 87(2)(b) screamed repeatedly, "Can I get a phone call? Am I under arrest?" The officers took § 87(2)(b) to § 87(2)(b) Hospital.

At the hospital, § 87(2)(b) was present for several hours. For the first two hours, he was still inside the bag, after which time the handcuffs and the bag were removed. He was brought to the psychiatric ward inside the hospital, and § 87(2)(b) heard an officer speaking with a doctor. The doctor asked, "Why are you bringing this man in here?" The officer asked the doctor if he could give § 87(2)(b) a shot, which the doctor refused to do. § 87(2)(b) persisted to scream while inside the hospital because the pepper-spray was burning his eyes but was not treated. At no point did any individual wash § 87(2)(b)'s eyes. He was allowed to make a phone call at approximately 3:00 AM.

While at the hospital, § 87(2)(b) heard a doctor state, “Take that man out the back as quickly as possible.” Afterwards, the doctor spoke with § 87(2)(b) and explained that he was not under arrest and that he was free to go. He stated that he was only at the hospital for medical attention. The doctor asked § 87(2)(b) a few questions to ensure that he was not “crazy” and afterwards allowed him to leave. § 87(2)(b) explained to the doctor what happened and that the officers struck him. At no point did any officer state that § 87(2)(b) was charged with a crime. They did not bring him to the police station. § 87(2)(b) did not see any officers respond in a “Swat Team” truck. § 87(2)(b) did not ask any other officers for their name and shield numbers. He did not ask PO Raso for his name or shield number more than once.

§ 87(2)(b) believed that § 87(2)(b) girlfriend saw this incident. § 87(2)(b) did not know § 87(2)(b) or Sniper well. He did not know if they were arrested before.

Notice of Claim (Encl. 4A-4C)

On § 87(2)(b), § 87(2)(b) and his attorney § 87(2)(b) filed a Notice of Claim for personal injuries, pain and suffering, psychological trauma, civil rights violations, false arrest and confinement, loss of enjoyment of life, hospital and medical expenses regarding this incident. § 87(2)(b)

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Results of Investigation

Attempts to Locate Witnesses

On December 12, 2006, the undersigned investigator went to the vicinity of Bronxwood Avenue and East 227th Street to locate witnesses. The investigator knocked on the doors at § 87(2)(b) who was the immediate area of this incident. The occupant the ground floor apartment at § 87(2)(b) who did not wish to provide a statement or her name, stated that she did not know § 87(2)(b) and did not know why he was arrested. (This individual assumed that § 87(2)(b) was arrested based on what she observed). She stated that she saw the situation and knew that there was a loud commotion, but did not wish to state anything further. The undersigned also spoke with § 87(2)(b) at § 87(2)(b). § 87(2)(b) stated that she was not present at the time of the incident, but heard from other neighbors that there was a large group and that § 87(2)(b) was screaming significantly at the time. She did not know if § 87(2)(b) was struck by any of the officers because she was not present. On March 6, 2007, the undersigned also called the occupants at § 87(2)(b) and spoke with § 87(2)(b) who stated that she did not want to provide a statement. Although she was aware of the incident, she refused to speak with the investigator and dismissed his questions by stating that she didn’t know anything and didn’t see anything.

Officer Statements

Sgt. Donald Abrams (Encl. 7A-7C)

On October 19, 2006, Sgt. Donald Abrams from the 47th Precinct Anti-Crime Team worked a 5:15 PM by 2:10 AM tour, in plainclothes, and was assigned as the anti-crime supervisor with PO Luis Alemany and PO Michael Raso. The officers were assigned to work in a marked Ford Explorer. Sgt. Abrams did not have any memo book entries regarding this incident. Since this incident, Sgt. Abrams was reassigned to the Emergency Services Unit. He has been a member of the NYPD for eight years. He was interviewed at the CCRB on January 30, 2007.

On October 19, 2006 at approximately 8:45 PM, Sgt. Abrams was in the front passenger seat, PO Raso was driving, and PO Alemany sat in the back seat of a marked Ford Explorer. The officers were driving northbound on Bronxwood Avenue near 227th Street. Approximately thirty feet south of the southeast corner of 227th Street and Bronxwood Avenue, Sgt. Abrams observed a group of men “huddling around one another.” Sgt. Abrams observed these males for a few moments, at which point he noticed one individual in the group, later identified as § 87(2)(b) notice the officers, and begin to walk away from the rest of the group. Sgt. Alemany did not recognize § 87(2)(b) or the individuals in his group. He suspected that the individuals in the group might have been involved in some kind of gang activity based on the area he was in and the colors they were wearing. Regardless of the group, however, Sgt. Abrams’s attention was focused on § 87(2)(b) who he saw look at the officers and appear to walk away from them, which was the main reason he became suspicious. The belief that § 87(2)(b) was walking away from the officers was due to the observation that as soon as he appeared to see the officers, he went from being engaged in the group and left immediately afterwards without saying goodbye or something more standard. Based on Sgt. Abrams experience on patrol, he does not often encounter average citizens who walk away from him, which was why he was suspicious of § 87(2)(b). When § 87(2)(b) walked away, he appeared to walk faster than a standard walking pace. Sgt. Abrams informed PO Raso that § 87(2)(b) Velaquez walked away from them and said, “let’s go see what he’s up to.” Sgt. Abrams stated that it was his personal decision to stop § 87(2)(b).

§ 87(2)(b) walked northbound on Bronxwood Avenue until he hit East 227th Street, at which point he turned right and walked east on the south side of the street. The officers pulled their vehicle along side § 87(2)(b) and with his window open Sgt. Abrams asked him if everything was all right and if he could speak with him for a minute. § 87(2)(b) ignored Sgt. Abrams and kept walking. Sgt. Abrams attempted to speak with § 87(2)(b) a few more times, which he ignored and continued to walk past the officers. § 87(2)(b) then began to walk down “an alleyway.” § 87(2)(b) did not say anything at all to the officers. Sgt. Abrams did not attempt to ask him anything other than, “Can I speak to you?” This alleyway was later described as a driveway that was not closed off or fenced in and was between two private homes. The driveway does not enter into the street but only into the yards for the two homes. The driveway was located a few houses from the corner. Sgt. Abrams attempted to speak to § 87(2)(b) as he walked away from him by stating, “Sir, can I please just talk to you?”

§ 87(2)(b) standing on the sidewalk, then turned and looked at the officers again and moved his right hand towards his right side at his waistband, facing away from the officers. The lighting condition was good from this area and Sgt. Abrams was able to clearly see § 87(2)(b) make this motion. Sgt. Abrams felt that § 87(2)(b) was attempting to reach for some kind of weapon. Prior to this time, Sgt. Abrams did not suspect that § 87(2)(b) was carrying a weapon. He did not see any bulges in his clothing or any other details that might have indicated a weapon. Sgt. Abrams stated that because he was on § 87(2)(b) s left side he was unable to see if there were any bulges on § 87(2)(b) s right side.

§ 87(2)(b) then began to run down the driveway. Sgt. Abrams exited his vehicle immediately and chased after him. He caught up to § 87(2)(b) while still inside the driveway and grabbed his arms because he feared he might reach for a weapon in his waistband. PO Raso and PO Alemany also grabbed § 87(2)(b) s arms at this time. Sgt. Abrams stated, “Sir, do you live here or anything?” § 87(2)(b) stated, “I live here.” Sgt. Abrams stated, “It’s alright, we’re the police, we just wanted to make sure you lived here.” § 87(2)(b) without any provocation in any way, then began to flail his arms. He did not move his hands in a manner that indicated that he was going to punch any of the officers, but was moving his arms in a wild and erratic manner. This escalated into a “violent struggle” in which the officers attempted to gain control of § 87(2)(b) s arms. § 87(2)(b) did not push Sgt. Abrams or any other officers from what Sgt. Abrams saw. § 87(2)(b) was screaming incoherently, but was clear when stating that he lived at the location. Sgt. Abrams did not recall § 87(2)(b) stating anything further. § 87(2)(b) indicated that he lived in the house to the right of the driveway by stating “that house,” but he did not make any mention of which door or to which apartment he lived.

Sgt. Abrams did not recall moving § 87(2)(b) to the ground in order to place him in handcuffs. He was standing at the time the officers placed him in handcuffs. All three officers assisted in placing § 87(2)(b).

§ 87(2)(b) in handcuffs. Due to § 87(2)(b)'s behavior, the officers handcuffed him so that they could maintain control of him. Sgt. Abrams then patted on the outside of his waistband, but did not find any weapons or contraband. He did not reach inside his waistband or reach his hand inside any of § 87(2)(b)'s pockets. Sgt. Abrams did not know if § 87(2)(b) tore the seam on his pants.

Once § 87(2)(b) was in handcuffs, Sgt. Abrams saw a large crowd of individuals in the vicinity. These individuals did not attempt to confront the officers and did not engage with them in any way.

§ 87(2)(b) at this time, was "going absolutely crazy." He was screaming and kicking and was uncontrollable despite the fact that he was in handcuffs. One of the officers, either PO Alemany or PO Raso, went to the front door to the house in order to determine if § 87(2)(b) lived at the house in question. This officer was later identified from the investigation as PO Alemany. The home was not divided into different apartments and the door was facing the street. There were a large number of people outside and in the driveway. These individuals were outside as a result of § 87(2)(b)'s screaming. The officer then returned to Sgt. Abrams, who was holding on to § 87(2)(b) and explained that he spoke with "a bunch" of neighbors and no one knew § 87(2)(b). This officer also stated that he asked the owner of the home, who stated that § 87(2)(b) did not live there.

While still attempting to speak with § 87(2)(b) Sgt. Abrams told him, "Sir, they're saying you don't live here." § 87(2)(b) persisted to "go absolutely crazy." Sgt. Abrams realized that § 87(2)(b) was "just an emotionally disturbed person," and he feared that he was going to cause harm either to himself or to others. For this reason, the officers left him in handcuffs and Sgt. Abrams called the Emergency Services Unit to assist him further. Sgt. Abrams also called for an ambulance to respond to the scene.

ESU responded shortly afterwards and placed § 87(2)(b) in a "EDP" body length restraint bag and then placed him inside an ambulance and transported him to the hospital. One of Sgt. Abrams's officers, later identified as PO Alemany, rode with § 87(2)(b) and the EMTs to the hospital.

Sgt. Abrams did not recall if he ever asked him for his identification. He stated that most likely he or another officer would have, but he does not recall when this would have happened. Based on Sgt. Abrams's training, to his knowledge an officer can not arrest an emotionally disturbed person.¹ At no point did § 87(2)(b) ask any of the officers for their names and/or shield numbers. At no point did any officer punch or kick § 87(2)(b).

An officer went with § 87(2)(b) to the hospital, where he was admitted. Sgt. Abrams went to the hospital after this time in order to pick up one of the officers. There, he saw § 87(2)(b) in the psychiatric ward screaming. He was still in the same protective devices the officers placed him in for his security.

PO Luis Alemany (Encl. 10A-11C)

On October 19, 2006, PO Luis Alemany from the 47th Precinct worked a 5:30 PM by 02:05 AM tour, in plainclothes, in a marked SUV, and was assigned to anti-crime with PO Michael Raso and Sgt. Michael Abrams. PO Alemany has worked with the NYPD for fifteen years. He prepared an Aided Report for § 87(2)(b) that stated, "Aided was acting in a manner where he placed others in harm. Aided fought police at scene." PO Alemany was interviewed at the CCRB on December 8, 2006. His statement is consistent with Sgt. Abrams's statement, except where noted below.

PO Alemany made no mention of seeing § 87(2)(b) with a suspicious group of individuals. He stated that the officers first saw § 87(2)(b) when he was approximately six feet from the vehicle. He stated that § 87(2)(b) turned, looked at the officers, made a motion towards his pocket, and immediately

¹ During the interview, Sgt. Vincent Vallelong, council to the Sergeant Benevolent Association, answered the undersigned investigator's question, "If Mr. § 87(2)(b) was trespassing or committing any other crime or infraction at the time of the stop, why was he not summonsed or arrested?" Sgt. Vallelong answered before Sgt. Abrams by stating, "Can't summons or arrest an emotionally disturbed person."

walked into a driveway. On opposite sides of the driveway were homes that were divided into multiple apartments. Previous to this time, the officers were not following § 87(2)(b) and did not suspect him of criminal activity. The officers decided to stop him once they saw him place his hand in his pocket. Inside § 87(2)(b)'s pocket was a large bulge, approximately ten inches long with an unknown width that appeared to be heavy due to the way it was weighing down his pant leg. PO Alemany believed that it could have been a gun due to its size and apparent weight. PO Alemany suspected that § 87(2)(b) was attempting to evade the officers.

Upon seeing this, the officers exited their vehicle at the same time. The officers identified themselves as police officers and an officer asked § 87(2)(b) to remove his hand from his pocket, which § 87(2)(b) did not do. PO Alemany did not recall which officer spoke with § 87(2)(b). An officer asked § 87(2)(b) what he was doing and he stated that he lived at the apartment on the right, which he was walking towards. PO Raso asked § 87(2)(b) what was inside his pocket. He did not answer the officers and persisted to be "combative" and told the officers that they were "harassing" him. § 87(2)(b) never explained to the officers that his wallet and his identification were inside his pocket. He began to scream and shout at the officers, and he stated that they were "harassing" him repeatedly.

At this point, PO Raso, thinking that there may have been a weapon in § 87(2)(b)'s pocket, attempted to pat it in order to determine what the large heavy object was. § 87(2)(b) slapped PO Raso's hand away from his pocket. PO Raso did not conduct a frisk of § 87(2)(b) at this time.

PO Alemany grabbed one of § 87(2)(b)'s arms and Sgt. Abrams grabbed the other arm. PO Raso attempted to grab § 87(2)(b)'s pocket again, at which point § 87(2)(b) got away from PO Alemany, while still being held by Sgt. Abrams, and he pushed PO Raso away from him. The officers then turned § 87(2)(b) around and placed him in handcuffs. During this time, § 87(2)(b) was kicking and screaming. The officers wished to place § 87(2)(b) in handcuffs for their safety, because they did not know if the object in his pocket was a weapon and because he had smacked PO Raso's hand. The officers were able to place § 87(2)(b) in handcuffs while he was standing, but he persisted to kick and scream. It took approximately two minutes to place him in handcuffs. At no point did the officers move § 87(2)(b) to the ground and at no point did his pants tear in any way.

Several individuals exited their homes in response to § 87(2)(b)'s screaming. When PO Alemany asked, these individuals stated that they did not know § 87(2)(b). While waiting for the ESU officers to respond, several individuals from the same apartment § 87(2)(b) claimed to lived, explained to the officers that they did not know him. PO Alemany spoke with one male and two females. PO Alemany did not know who the individuals were and he did not record their names. PO Alemany did not know if the individuals exited the apartments once § 87(2)(b) began to scream or if this occurred before or after the officers attempted to place him in handcuffs. He did not know this because he was focused on § 87(2)(b) and not on the people who may or may not have been standing behind him.

While at the hospital, a doctor explained to PO Alemany that they were going to keep § 87(2)(b) for observation and speak with him later, because due to § 87(2)(b)'s condition at the time the officers brought him to the hospital, the doctors could not speak with him. At this point, PO Alemany was allowed to leave § 87(2)(b) in the custody of the hospital and no other officers had any further interaction with him.

At no point did § 87(2)(b) provide his identification or provide the officers with an explanation for why he did not provide it. PO Alemany did not use any pepper-spray against § 87(2)(b). PO Raso had a tattoo on his forearm.

The officers did not issue § 87(2)(b) any summonses and did not arrest him. PO Alemany stated that they did not arrest him because he believed that police department guidelines forbid officers to arrest emotionally disturbed people. Sgt. Abrams made the decision not to arrest § 87(2)(b) for his reason.

PO Michael Raso (Encl. 8A-9C)

On October 19, 2006, PO Michael Raso from the 47nd Precinct worked a 5:30 PM by 2:05 AM tour. He was assigned to anti-crime with Sgt. Michael Abrams and PO Louis Alemany, was working in plainclothes, and was assigned to a marked Ford Explorer. PO Raso has been a member of the NYPD for three years. PO Raso was interviewed at the CCRB on March 6, 2007. He had no memo book entries regarding this incident. His statement was consistent with the other officer statements, except where noted below.

Before noticing § 87(2)(b) PO Raso noticed a group of five to ten males speaking on the corner. These individuals got PO Raso's attention because they were a large group on a corner that has a lot of drug problems. He stated that normally the officers would have told these men to leave the location. As the officers were stopped there, they saw a male, later identified as § 87(2)(b) speaking to the group. PO Raso did not recall what § 87(2)(b) was wearing at the time of this incident. He did not make any note of any large bulges or distinctive characteristics of § 87(2)(b)'s appearance that would have indicated that he had a weapon. § 87(2)(b) looked at the officers and stopped his conversation and walked along East 227th Street and headed east away from the officers.

PO Raso turned right to follow § 87(2)(b) and Sgt. Abrams stated to § 87(2)(b) as he walked, "Sir, can I talk to you for a second." § 87(2)(b) did not acknowledge Sgt. Abrams and proceeded to walk along East 227th Street, on the sidewalk. PO Raso drove a few more feet up the street and Sgt. Abrams stated again to § 87(2)(b) from the vehicle, "Sir, can I please talk to you for a second." At this time, § 87(2)(b) looked back at the officers and began to walk up the driveway. The officers opened the door to their vehicle intending to approach § 87(2)(b) at which point he turned and looked back at the officers before he grabbed his waistband and proceeded to run down the driveway towards the back yard. (PO Raso later stated that § 87(2)(b) walked up the driveway). § 87(2)(b) looked as though he was attempting to hold something that was heavy within the area of his waist.

All three officers exited their vehicle at once. Within two or three seconds, PO Raso and Sgt. Abrams caught up to § 87(2)(b) within seconds and both grabbed him by the arms in order to stop him because they believed that he was carrying a weapon. § 87(2)(b) was approximately twenty and thirty feet from the vehicle. The officers grabbed § 87(2)(b) by the arm as a safety measure to ensure that the individual can not remove any weapons. As soon as the officers forcibly stopped § 87(2)(b) he immediately began to fight them by screaming, kicking, and punching at the officers. § 87(2)(b) at one point, grabbed PO Raso's shield, which he wore around his neck, and ripped it off. § 87(2)(b) attempted to punch the officers, but was unable to because the officers held on to his hands so that he could not strike them. § 87(2)(b) persisted to kick PO Raso in the knee two or three times. The officers still did not know whether or not § 87(2)(b) was in possession of a weapon because he was fighting with them. Eventually, the officers worked together by grabbing his arms and forcing them behind his back where they were able to place him in handcuffs. He was still standing when the officers placed him in handcuffs. PO Alemany assisted PO Raso and Sgt. Abrams in placing him in handcuffs. The officers did not strike § 87(2)(b) or use any additional force than moving his hands behind his back. An officer frisked § 87(2)(b)'s waistband exclusively in the area where he previously reached towards, and it was revealed that he did not have a weapon. PO Raso also stated that the officers frisked him once, then placed him in handcuffs, at which point they conducted a more thorough frisk of his body. At no point did any officer reach inside § 87(2)(b) pockets. An officer asked § 87(2)(b) if he lived at the location and he screamed that he did and was also screaming "incoherently." PO Raso could not understand anything else § 87(2)(b) was saying, which is what he meant by incoherent. He was screaming and mumbling to the extent that the officers could not understand what he was trying to say. At this point the officers determined that he was emotionally disturbed.

The officers called for an additional unit and an ambulance to respond to the scene. While § 87(2)(b) was in handcuffs, he persisted to kick and scream at the officers. PO Raso did not recall what § 87(2)(b) stated except that he lived there. § 87(2)(b) stated, "I fucking live here! What are you guys fucking doing!"

At no point did § 87(2)(b) pant's leg tear. The only time that any officer came into physical contact with his leg was when an officer frisked him in order to ensure that he did not have a weapon in his

waistband. At no point did an officer search him. At no point did § 87(2)(b) ask an officer for his name or shield number. PO Raso did not see § 87(2)(b)'s pants damaged in any way. § 87(2)(b) did not carry anything with him when the officers stopped him. PO Raso did not look at § 87(2)(b)'s identification and did not know if any other officer did this.

Medical Records

Subpoenas were sent for § 87(2)(b)'s medical records on November 30, 2006 and again on March 7, 2007, both of which returned negative. One Source Document Management, who manages medical records for § 87(2)(b) Medical Center, did not have any record of § 87(2)(b)'s treatment on the date of this incident. The § 87(2)(b) Medical Center Health Information Management Division returned records for the treatment of § 87(2)(b) on § 87(2)(b), but there were no available records for an incident on § 87(2)(b).

SPRINT (Encl. 12A-12C)

On 8:57 PM, officers called for a criminal arrest and stated that it was a non-emergency situation. The 47th Precinct Sector A responded and at 9:00 PM, EMS was requested for an EDP at the location. EMS officers responded at 9:03 PM. At 9:06 PM, the arresting officers from the 47th Precinct requested additional officers to respond and stated at 9:08 PM that an EDP was out of control and in handcuffs. They stated that 9:10 PM that no officers were injured. At 9:18 PM, officers reported one individual under arrest and that they were going to § 87(2)(b) Hospital.

Roll Call and Command Log (Encl. 13A-13D)

Roll call indicated that PO Raso, PO Alemany, and Sgt. Abrams were all assigned to anti-crime and were all working together in a marked police vehicle. There were no other officers assigned to work anti-crime during this tour. The command log indicated that § 87(2)(b) was not brought to the 47th Precinct.

CCRB and Criminal Conviction Histories (Encl. 3A-3E, 14A)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) Sgt. Donald Abrams has had three substantiated CCRB complaints in the eight years he has worked for the NYPD. Concerning an incident on October 31, 2002, the CCRB recommended charges against Sgt. Abrams for providing a false official statement but the NYPD did not file any charges against him. Concerning an incident on February 19, 2003, the CCRB substantiated an allegation of physical force, for which the NYPD found Sgt. Abrams to be not guilty. Concerning an incident on June 18, 2006, the CCRB substantiated a vehicle search allegation against Sgt. Abrams, for which he was issued instructions. In the fifteen years PO Alemany has been a member of the NYPD, has had one substantiated CCRB complaint. Concerning an incident on May 22, 1996, the CCRB substantiated a threat of force allegation against PO Alemany, for which the NYPD issued a Command Discipline A. In the three years PO Raso has been a member of the NYPD, he has had no substantiated CCRB complaints.

Conclusions and Recommendations

Officer Identification

§ 87(2)(b) was direct about alleging the following allegations, A, D, F, H, and I, against PO Raso, whom he identified as a white male officer with a tattoo on his forearm. As PO Raso was the only officer with a tattoo on his forearm, it is reasonable to assume that he is the alleged subject. As Sgt. Abrams admitting to authorizing the stop and conducting the frisk, allegations B and E were pled against him. Because PO Alemany also admitted to using physical force against § 87(2)(b) allegation C was pled against him. Because § 87(2)(b) alleged that his pants were torn while struggling with all three officers, but there is no indication that any officer specifically intended to damage his property or did in fact damage his property, allegation G was pled against "officers."

§ 87(2)(b), § 87(2)(g)

Allegation A: PO Michael Raso refused to provide his shield number to § 87(2)(b)

Allegation F: PO Michael Raso searched § 87(2)(b)

Allegation G: Officers damaged § 87(2)(b) **s property.**

Allegation H: PO Michael Raso strip-searched § 87(2)(b)

Allegation I: PO Michael Raso used pepper-spray against § 87(2)(b)

§ 87(2)(g)

. In his § 87(2)(b) he made no mention of being punched. He explained the force used as “pushing up against a building and hand cuffing him, tugging and/or pulling on his arms while his hands were handcuffed behind his back.” § 87(2)(b), § 87(2)(a), § 87(2)(g)

The claim stated that § 87(2)(b) was “pushed against a building” in order to be placed in handcuffs, rather than, as § 87(2)(b) previously stated, moving him to the ground. It also made no mention of being pepper-sprayed. § 87(2)(b), § 87(2)(g), § 87(2)(c) (impair contract awards or CBAs)

Allegation B: Sgt. Donald Abrams authorized the stop of § 87(2)(b)

§ 87(2)(g)

Kamins states, “Not only can a citizen refuse to answer the officer’s question, but should the citizen run from the officer, such flight, where there is no indication of criminal activity, is an insufficient basis for pursuit by the officer” (Encl. 1A). Sgt. Abrams admitted that he decided to stop § 87(2)(b) and did so by placing his arm on his shoulder and forcefully impeded upon his motion. At the time of § 87(2)(b) stop there was not any clear evidence that he was about to commit or had committed a crime. The motion of his hand towards his waist was an innocuous behavior without indication of criminality. § 87(2)(b), § 87(2)(g)

. Administrative Law Judge Charles R. Fraser held in *Police Department v. Dowd and Rose* that “an improper search or seizure is punishable misconduct if the officer acted with knowledge that he was acting improperly, acted without concern for the propriety of his actions, or acted without due and reasonable care that his actions be proper” (Encl. 2A-2C). § 87(2)(g)

Allegation C: Sgt. Donald Abrams used physical force against § 87(2)(b)

Allegation D: PO Luis Alemany used physical force against § 87(2)(b)

Allegation E: PO Michael Raso used physical force against § 87(2)(b)

§ 87(2)(g)

Based on the consistency of the officers' statements, the fact that they called for Emergency Services to respond in order to restrain § 87(2)(b) the witnesses who stated that § 87(2)(b) was screaming and drew them from their homes, and § 87(2)(b)'s own admission of his loud and violent behavior, there is substantial proof that he was acting in a manner that placed himself and the officers at serious risk of injury. § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: